

Executive Summary – Enforcement Matter – Case No. 44534
Knife River Corporation - South
RN104859178
Docket No. 2012-1405-AIR-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

AIR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Waco Hot Mix Plant, 3423 Marlin Highway 6, Waco, McLennan County

Type of Operation:

Permanent hot mix asphalt plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: December 14, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$2,875

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$2,875

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

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Investigation Information

Complaint Date(s): April 24, 2012

Complaint Information: Alleged nuisance odor conditions from the asphalt plant.

Date(s) of Investigation: May 1, 2012

Date(s) of NOE(s): April 24, 2012 through June 21, 2012

Violation Information

Failed to comply with the opacity limit of 5% averaged over a six-minute period [30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b) and Standard Permit No. 77897L001 General Requirements No. (1)(L)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On or before July 8, 2012, Respondent implemented the following corrective measures:

- a. Inspected and replaced approximately 780 baghouse bags; and
- b. Developed revised procedures for inspecting emitting units, baghouses and control devices and implemented associated inventory procedures to maintain an adequate supply of replacement bags on-site. These procedures include inspections at a frequency of at least once a week and personnel training.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jessica Schildwachter, Enforcement Division, Enforcement Team 5, MC-149, (512) 239-2617; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Brandon Keller, Vice President of Administration, Knife River Corporation - South, P.O. Box 674, Bryan, Texas 77806

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Roy L. Kirkpatrick, Jr., Vice President Materials, Knife River Corporation - South, P.O.
Box 674, Bryan, Texas 77806

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	25-Jun-2012	Screening	11-Jul-2012	EPA Due	
	PCW	11-Jul-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	Knife River Corporation - South		
Reg. Ent. Ref. No.	RN104859178		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	44534	No. of Violations	1
Docket No.	2012-1405-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Ana Quinones
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	25.0% Enhancement	Subtotals 2, 3, & 7	\$625
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Notes Enhancement for five NOVs with same/similar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$250
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$549
Approx. Cost of Compliance	\$38,715

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,875
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$2,875
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,875
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$2,875
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Screening Date 11-Jul-2012

Docket No. 2012-1405-AIR-E

PCW

Respondent Knife River Corporation - South

Policy Revision 3 (September 2011)

Case ID No. 44534

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN104859178

Media [Statute] Air

Enf. Coordinator Ana Quinones

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	5	25%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for five NOVs with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 25%

Screening Date 11-Jul-2012

Docket No. 2012-1405-AIR-E

PCW

Respondent Knife River Corporation - South

Policy Revision 3 (September 2011)

Case ID No. 44534

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN104859178

Media [Statute] Air

Enf. Coordinator Ana Quinones

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Tex. Health & Safety Code § 382.085(b) and Standard Permit No. 77897L001 General Requirements No. (1)(L)

Violation Description Failed to comply with the opacity limit of 5% averaged over a six-minute period. Specifically, an opacity of 11% averaged over a six-minute period was documented on April 24, 2012 and an opacity of 37% averaged over a six-minute period was documented on May 1, 2012.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Release	Major	Moderate	Minor
Actual				x
Potential				

Percent 5.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment was exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2

2 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

Two single events are recommended for the opacity exceedances on April 24, 2012 and May 1, 2012.

Good Faith Efforts to Comply

10.0% Reduction

\$250

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

Corrective action was completed on July 8, 2012, after the June 21, 2012 NOE.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$549

Violation Final Penalty Total \$2,875

This violation Final Assessed Penalty (adjusted for limits) \$2,875

Economic Benefit Worksheet

Respondent Knife River Corporation - South

Case ID No. 44534

Reg. Ent. Reference No. RN104859178

Media Air

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment	\$36,715	24-Apr-2012	8-Jul-2012	0.21	\$25	\$503	\$528
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	24-Apr-2012	8-Jul-2012	0.21	\$21	n/a	\$21

Notes for DELAYED costs

Estimated costs for implementing measures and/or installing equipment that will ensure that the Plant can comply with the allowable opacity limit. The date required is the first date of non-compliance and the final date is the actual date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$38,715

TOTAL

\$549

Compliance History Report

Customer/Respondent/Owner-Operator: CN603201740 Knife River Corporation - South Classification : AVERAGE Rating: 2.65

Regulated Entity: RN104859178 WACO HOT MIX PLANT Classification: AVERAGE Site Rating: 1.71

ID Number(s): AIR NEW SOURCE PERMITS AFS NUM 4877702125
 AIR EMISSIONS INVENTORY ACCOUNT NUMBER 960416G
 AIR NEW SOURCE PERMITS REGISTRATION 77897L001
 AIR NEW SOURCE PERMITS REGISTRATION 102044

Location: 3423 MARLIN HWY 6, Waco, Texas

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: June 26, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 26, 2007 to June 26, 2012

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Ana Quinones Phone: (512) 239 - 2608

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government. N/A
- B. Any criminal convictions of the state of Texas and the federal government. N/A
- C. Chronic excessive emissions events. N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 07/24/2007 (567886)
- 2 06/16/2009 (746409)
- 3 07/27/2009 (762899)
- 4 05/17/2010 (802903)
- 5 07/15/2010 (827467)
- 6 03/01/2011 (894593)
- 7 12/15/2011 (963833)
- 8 03/27/2012 (993616)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	06/17/2009	(746409)	CN603201740
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THSC Chapter 382 382.085(b) Special Condition No. 1L PERMIT		
Description:	Failure to comply with the opacity limit defined in Special Condition No. 1L of Permit No. 77897L001.		
Date:	02/19/2010	(792670)	CN603201740
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 111, SubChapter B 111.201 5C THSC Chapter 382 382.085(b)		
Description:	Failure to comply with the general prohibition on outdoor burning within the State of Texas as required by Title 30 of the Texas Administrative Code §111.201, by not meeting an exception as provided in Title 30 of the Texas Administrative Code §111.205-§111.215.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 101, SubChapter A 101.4 5C THSC Chapter 382 382.085(a) 5C THSC Chapter 382 382.085(b)		
Description:	Failure to comply with the nuisance rule specified in Title 30 of the Texas Administrative Code, Chapter 101, §101.4.		
Date:	04/14/2010	(785770)	CN603201740
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 101, SubChapter A 101.4		
Description:	Knife River failed to comply with Title 30 Texas Administrative Code (TAC) §101.4 which states, No person shall discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)		
Description:	Knife River failed to comply with 30 TAC §116.115 (c) which states The holders of permits, special permits, standard permits, and special exemptions shall comply with all special conditions contained in the permit document.		
Date:	12/01/2010	(873266)	CN603201740
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THSC Chapter 382 382.085(b)		
Description:	Knife River failed to comply with 30 TAC §116.115(c), which requires the company to comply with all the conditions stated in TCEQ Permit No. 77897. TCEQ Permit No. 77897 Condition (1)(L) requires the opacity of emissions from the lime silo fabric filter baghouse stack and/or the drum dryer stack not to exceed 5 percent averaged over a six minute period according to EPA Test Method 9.		
Date:	12/15/2011	(963833)	CN603201740
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B) 30 TAC Chapter 116, SubChapter B 116.115(c) 5C THSC Chapter 382 382.085(b) Hot Mix Asphalt Plant Standard Permit PERMIT		
Description:	Failure to comply with General Requirement (1)(L) of permit 77897.		

F.	Environmental audits.	N/A
G.	Type of environmental management systems (EMSs).	N/A
H.	Voluntary on-site compliance assessment dates.	N/A
I.	Participation in a voluntary pollution reduction program.	N/A
J.	Early compliance.	N/A
	Sites Outside of Texas	N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
KNIFE RIVER CORPORATION -
SOUTH
RN104859178**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2012-1405-AIR-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Knife River Corporation - South ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that they have certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a permanent hot mix asphalt plant at 3423 Marlin Highway 6 in Waco, McLennan County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation on April 24, 2012 through May 1, 2012, TCEQ staff documented that the Respondent failed to comply with the opacity limit of 5% averaged over a six-minute period. Specifically, an opacity of 11% averaged over a six-minute period was documented on April 24, 2012 and an opacity of 37% averaged over a six-minute period was documented on May 1, 2012.
4. The Respondent received notice of the violations on June 26, 2012.
5. The Executive Director recognizes that on or before July 8, 2012, the Respondent implemented the following corrective measures at the Plant:
 - a. Inspected and replaced approximately 780 baghouse bags; and
 - b. Developed revised procedures for inspecting emitting units, baghouses and control devices and implemented associated inventory procedures to maintain an adequate supply of replacement bags on-site. These procedures include inspections at a frequency of at least once a week and personnel training.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with the opacity limit of 5% averaged over a six-minute period, in violation of 30 TEX. ADMIN. CODE § 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(b) and Standard Permit No. 77897L001 General Requirements No. (1)(L).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Two Thousand Eight Hundred Seventy-Five Dollars (\$2,875) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Two Thousand Eight Hundred Seventy-Five Dollar (\$2,875) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Two Thousand Eight Hundred Seventy-Five Dollars (\$2,875) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Knife River Corporation - South, Docket No. 2012-1405-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and

may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

2/13/13
Date

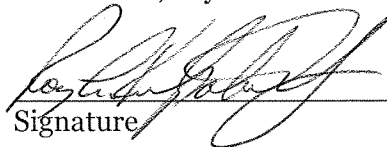
I, the undersigned, have read and understand the attached Agreed Order in the matter of Knife River Corporation - South. I am authorized to agree to the attached Agreed Order on behalf of Knife River Corporation - South, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Knife River Corporation - South waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

SEPTEMBER 24, 2012
Date

ROY L. KIRKPATRICK, JR.
Name (Printed or typed)
Authorized Representative of
Knife River Corporation - South

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.